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J.T., Appellant)	
)	
and)	Docket No. 08-1851
)	Issued: April 6, 2009
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U.S. POSTAL SERVICE, SHREVEPORT)	
VEHICLE MAINTENANCE FACILITY,)	
Shreveport, LA, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

On June 19, 2008 appellant filed a timely appeal of an April 17, 2008 merit decision of the Office of Workers' Compensation Programs, finding that he had no more than a seven percent impairment of the left upper extremity. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has more than a seven percent impairment of the left upper extremity, for which he received a schedule award.

On May 11, 2005 appellant, then a 59-year-old automobile mechanic, filed a traumatic injury claim alleging that on May 10, 2005 he lost the end of his left index finger when it became caught between sections of a vehicle door he was working on. The Office accepted the claim for

traumatic amputation of the left finger without complications and open wound of the finger with complications.

On May 10, 2005 Dr. Stephen J. Ramey, an attending Board-certified plastic surgeon, amputated the tip of appellant's left index finger.

On November 16, 2005 appellant filed a claim for a schedule award.

By letter dated December 30, 2005, the Office requested that Dr. Ramey determine, among other things, whether appellant sustained any work-related permanent impairment based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (5th ed. 2001). Dr. Ramey did not respond.

On August 14, 2006 the Office accepted appellant's claim for an open fracture of the metacarpal bone of the neck and infection and inflammatory reaction due to nervous system device, implant and graft.

By letter dated November 8, 2007, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. Robert E. Holladay, IV, a Board-certified orthopedic surgeon, for a second opinion medical examination.

In a December 10, 2007 medical report, Dr. Holladay reviewed a history of appellant's May 10, 2005 employment injuries and medical treatment. He used a finger goniometry to measure range of motion and a two-point discrimination device to measure sensory loss of the left index finger. Dr. Holladay reported very minimal sensory loss at the very tip of the more or less scar. He found no evidence of residual damage or sensory loss to either digital nerve injury. Regarding the metacarpophalangeal (MCP) joint, Dr. Holladay reported 85 degrees of flexion which constituted three percent impairment and 0 degrees of extension which represented zero percent impairment, resulting in three percent impairment (A.M.A., *Guides* 464, Figure 16-25). Regarding the proximal interphalangeal (PIP) joint, he reported 70 degrees of flexion which constituted 18 percent impairment and 0 degrees of extension which represented 0 percent impairment, resulting in 18 percent impairment (A.M.A., *Guides* 463, Figure 16-23). Dr. Holladay stated that the distal interphalangeal (DIP) joint had 38 degrees of flexion which constituted 15 percent impairment and 0 degrees of extension which represented 0 percent impairment, resulting in 15 percent impairment (A.M.A., *Guides* 461, Figure 16-21). He combined the 3 percent impairment of the MCP joint and the 18 percent impairment of the PIP joint to calculate 20 percent impairment (A.M.A., *Guides* 604, Combined Values Chart). Dr. Holladay combined the 20 percent impairment rating with the 15 percent impairment of the DIP joint to calculate a 32 percent impairment of the left index finger. He determined that the 32 percent impairment of the left finger constituted a 6 percent impairment of the hand¹ (A.M.A., *Guides* 438, Table 16-1). Dr. Holladay further determined that the six percent hand impairment represented a five percent impairment of the left upper extremity (A.M.A., *Guides* 439, Table

¹ It appears that Dr. Holladay inadvertently stated that appellant sustained a six percent impairment of the whole person rather than a six percent impairment of the hand as he utilized Table 16-1 on page 438 of the A.M.A., *Guides*.

16-2). He opined that appellant sustained five percent impairment or a three percent impairment of the whole person due to the May 10, 2005 employment injuries (A.M.A., *Guides* 439, Table 16-3).

On January 22, 2008 Dr. Ronald Blum, an Office medical adviser, reviewed Dr. Holladay's December 10, 2007 report. He stated that appellant reached maximum medical improvement on December 10, 2007. Dr. Blum determined that he sustained 10 percent impairment for amputation of the tip of his left index finger (A.M.A., *Guides* 447, Figure 16-7) noting that Dr. Holladay did not provide such an impairment rating. He agreed with Dr. Holladay that appellant sustained a 15 percent impairment of the DIP joint, an 18 percent impairment of the PIP joint and a 3 percent impairment of the MCP joint, resulting in a 32 percent impairment of the left index finger (A.M.A., *Guides* 461, 463, 464 and 604, Figures 16-21, 16-23 and 16-25 and Combined Values Chart). Dr. Blum combined the 32 percent impairment rating for decreased range of motion with the 10 percent impairment for amputation of the left finger to calculate a 39 percent impairment of the left index finger (A.M.A., *Guides* 604, Combined Values Chart). He determined that the 39 percent impairment of the left index finger represented an 8 percent impairment of the hand (A.M.A., *Guides* 438 Table 16-1) which constituted a 7 percent impairment of the left upper extremity (A.M.A., *Guides* 439, Table 16-2).

By decision dated April 17, 2008, the Office granted appellant a schedule award for a seven percent impairment of the left upper extremity.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulations³ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage of loss of use.⁴ However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office adopted the A.M.A., *Guides* as a standard for determining the percentage of impairment and the Board has concurred in such adoption.⁵

The standards for evaluation of the permanent impairment of an extremity under the A.M.A., *Guides* are based on loss of range of motion, together with all factors that prevent a limb from functioning normally, such as pain, sensory deficit and loss of strength. All of the factors should be considered together in evaluating the degree of permanent impairment.⁶

² 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

³ 20 C.F.R. § 10.404.

⁴ 5 U.S.C. § 8107(c)(19).

⁵ 20 C.F.R. § 10.404.

⁶ *See Paul A. Toms*, 28 ECAB 403 (1987).

ANALYSIS

The Office granted appellant a schedule award for seven percent impairment of the left upper extremity. On appeal, appellant contends that he is entitled to greater than the schedule award he previously received. The Board, however, finds that appellant has not established that he has more than a seven percent impairment of the left upper extremity.

Dr. Holladay, an Office referral physician, opined that appellant sustained minimal sensory loss and no residual damage of the left index finger. He determined that appellant sustained a five percent impairment of the left upper extremity or a three percent impairment of the whole person, combining impairments of decreased range of motion related to the left index finger. Regarding the MCP joint, Dr. Holladay rated three percent impairment for 85 degrees of flexion and zero percent impairment for 0 degrees of extension, resulting in three percent impairment (A.M.A., *Guides* 464, Figure 16-25). Regarding the PIP joint, he rated 18 percent impairment for 70 degrees of flexion and 0 percent impairment for 0 degrees of extension, resulting in 18 percent impairment (A.M.A., *Guides* 463, Figure 16-23). Dr. Holladay determined that the DIP joint had 38 degrees of flexion which constituted 15 percent impairment and 0 degrees of extension represented 0 percent impairment, resulting in 15 percent impairment (A.M.A., *Guides*, 461, Figure 16-21). He combined the 3 percent impairment of the MCP joint and the 18 percent impairment of the PIP joint to calculate 20 percent impairment (A.M.A., *Guides*, 604, Combined Values Chart). Dr. Holladay combined the 20 percent impairment rating with the 15 percent impairment of the DIP joint to calculate a 32 percent impairment of the left index finger. He determined that the 32 percent impairment of the left finger constituted a 6 percent impairment of the hand (A.M.A., *Guides* 438, Table 16-1). Dr. Holladay found that appellant's six percent impairment of the hand represented a five percent impairment of the left upper extremity (A.M.A., *Guides* 439, Table 16-2). He opined that appellant sustained a five percent impairment or a three percent impairment of the whole person due to the May 10, 2005 employment injuries (A.M.A., *Guides* 439, Table 16-3). The Board, however, finds that Dr. Holladay's impairment rating is of diminished probative value. While the A.M.A., *Guides* provides an impairment rating for amputation of a finger (A.M.A., *Guides* 437, Figure 16-7), Dr. Holladay did not provide such an impairment rating for the May 10, 2005 amputation of appellant's left index finger. He did not explain why appellant was not entitled to an impairment rating for the amputation. For these reasons, the Board finds that Dr. Holladay's impairment rating of the left upper extremity is insufficient to establish that appellant has more than a seven percent impairment of the left upper extremity.

Dr. Blum, an Office referral physician, reviewed Dr. Holladay's findings. He determined that appellant sustained 10 percent impairment for amputation of the tip of his left index finger (A.M.A., *Guides* 447, Figure 16-7). Dr. Blum determined that appellant sustained a 15 percent impairment of the DIP joint, an 18 percent impairment of the PIP joint and a 3 percent impairment of the MCP joint, resulting in a 32 percent impairment of the left index finger due to decreased range of motion (A.M.A., *Guides* 461, 463, 464 and 604, Figures 16-21, 16-23 and 16-25 and Combined Values Chart). He combined the 32 percent impairment rating for decreased range of motion with the 10 percent impairment for amputation of the left finger to calculate a 39 percent impairment of the left index finger (A.M.A., *Guides* 604, Combined Values Chart). Dr. Blum determined that the 39 percent impairment of the left index finger represented an 8

percent impairment of the hand (A.M.A., *Guides* 438 Table 16-1) which constituted a 7 percent impairment of the left upper extremity (A.M.A., *Guides* 439, Table 16-2).

Dr. Blum properly applied the A.M.A., *Guides* and provided rationale for rating a seven percent impairment of the left upper extremity. The Board finds that Dr. Blum's opinion represents the weight of the medical evidence of record. Appellant has no more than a seven percent impairment of the left upper extremity.

CONCLUSION

The Board finds that appellant has no more than a seven percent impairment of the left upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the April 17, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 6, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board